

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9683 of 2012

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RAGHUNATH PRASAD Son Of Late Bishwanath Ram Resident Of Village-
Masudanpur, P.O.- Kasidih, P.S.- Kahalgaon, District- Bhagalpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government Of Bihar, Patna
3. The Secretary, Road Construction Department, Bihar, Patna
4. The Engineer In Chief Cum Additional Commissioner Cum Special Secretary, Road Construction Department, Bihar, Patna
5. The Joint Secretary, Road Construction Department, Bihar, Patna
6. The Chairman, Bihar Public Service Commission, Bailey Road, Patna
7. Girish Nandan Singh
8. Ram Pravesh Kumar Singh
9. Ajay Kumar Singh
10. Ravi Shankar Prasad Singh
11. Krishna Nand Prasad
12. Pandey Sunil Kumar
13. Abhay Kumar
14. Krishna Chandra Mishra
15. Suresh Prasad Singh
16. Kedar Singh
17. Surendra Barai
18. Ranjan Kumar
19. Sashi Bhushan Sharma
20. Manoranjan Kumar Sinha
21. Harihar Nath Mallik
22. Binod Kumar Agarwal
23. Surendra Jha
24. Sheo Shankar Prasad
25. Chaman Prakash Sinha
26. Hare Ram Singh
27. Ram Prakash Singh
28. Sada Sheo Prasad Singh
29. Sheo Kumar Singh
30. Ishwari Prasad Singh



31. Rajendra Paswan
 32. Lalan Choudhary
 33. Raj Kumar Lal
 34. Ashok Kumar Verma
 35. Chandra Shekhar Sahu
 36. Niranjana Kumar
 37. Prabhat Kumar
- Respondent Nos.7 to 37 through the Secretary, Road Construction Department, Govt. of Bihar, Patna as they were promoted vide Notification No.9396 (s) dated 27.08.2009.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sudhir Kumar Raj, Advocate
For the Respondent/s	:	Mr.Mujtabaul Haque, G.P.-12.
	:	Mr. Vasant Vikas, A.C. to G.P.-12.
For the B.P.S.C.	:	Mr. Uma Nath Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 13-03-2024

Heard learned counsel for the petitioner, learned counsel appearing for the B.P.S.C. and learned counsel appearing for the State.

2. The present writ application has been filed for the following reliefs:

(I) To Quash Letter 1/PRO-08/2011 1499(S) dated 08/2/2012 issued under signature of the Joint secretary Road Construction Department refusing to consider Promotion of the petitioner to the post of Superintending Engineer (Civil).

(II) Quashing letter no.9369 (S) dated 27/8/2009 promoting respondent no.7 to 37 to the post of Superintending Engineer (Civil) in the Road Construction Department in pay scale



of Rs.14300-18300 ignoring the petitioner who is senior to them and placed at serial no.640A in the seniority list.

(III) For commanding respondents to convene meeting of DPC for considering petitioner promotion to the post of Superintending Engineer in the pay scale of Rs.14300-18300 and grant him such promotion with effect from the day on which his junior have been granted and with all consequential relief.

3. Learned counsel for the petitioner submits that the petitioner was appointed on 13.02.1989 on the post of Assistant Engineer in Road Construction Department, Government of Bihar. Learned counsel for the petitioner submits that the final seniority list of the Assistant Engineer the petitioner was placed at Sl.No.2622 and after due verification Notification No.2089 dated 19.02.2007 was published in which the petitioner was placed at Sl.No.2600. Learned counsel for the petitioner submits that the petitioner was entitled for promotion to the post of Executive Engineer in the year 1998 itself but the case of the petitioner was not considered. Thereafter, the petitioner has approached this Court in CWJC No.4598 of 1998 and consequently the petitioner was promoted to the post of Executive Engineer vide Notification No.5144 (S) dated 27.07.2000 but the petitioner is not getting consequential benefit and the junior to the petitioner has received



the monetary benefits then the petitioner had again approached this Court for its consequential benefits vide CWJC No.10522 of 2002 and its LPA No.808 of 2005 wherein this Court directed the respondents to give all consequential benefits to the petitioner with effect from 14.06.1999. Learned counsel for the petitioner submits that again the respondent has published a final seniority list of the Executive Engineer in which the petitioner was placed at Sl.No.741. Learned counsel for the petitioner submits that the Department has sent the list of 98 Executive Engineers to the B.P.S.C. for concurrence in which the name of the petitioner was placed at Sl.No.741. In fact the petitioner was placed at Sl.No.640A but the same has not been annexed with the writ application. Thereafter, the petitioner had again moved before this Court in CWJC No.4057 of 2010 for his due promotion but before that the petitioner was put under suspension with effect from 06.08.2008 but his suspension was withdrawn in the light of the order dated 16.06.2009.

4. Learned counsel for the State has filed the counter affidavit as well as the supplementary counter affidavit stating therein that the reliefs sought for by the petitioner is non-consideration and non-grant of his promotion to the post of Superintending Engineer, the present matter relating to promotion



pertains to more than a decade old, as the order under challenge is dated 08.02.2012 and since then, subsequent developments have taken place and the petitioner has been retired from service w.e.f. 31.01.2022. The case of the petitioner for promotion from the post of Executive Engineer to Superintending Engineer could not be considered from 2008 onwards of various reasons:

(I) Petitioner was placed under suspension vide departmental letter No.10735 (S) read with Memo No.10736 (S) dated 06.08.2008 on the charge of unauthorized absence and thereafter, departmental proceeding was initiated against him vide Departmental Resolution No.11229(S) dated 08.10.2009 and on conclusion of the said departmental proceeding, petitioner was inflicted with the punishment of major penalty vide Departmental Notification No.4327 (S) read with Memo No.4324(S) dated 30.05.2013 by which punishment of demotion on the lowest grade of Executive Engineer was inflicted upon him.

5. Learned counsel for the State submits that pursuant to the direction of this Hon'ble Court on 16.08.2018 passed in CWJC No.7871 of 2014, the Principal Secretary, Road Construction Department, Govt. of Bihar passed a reasoned/speaking order vide Memo No.1804(S) dated 21.02.2019 whereby major penalty was



converted into minor penalty of stoppage of two increments without cumulative effect.

6. Learned counsel for the State submits that the General Administration Department, Govt. of Bihar has issued an order vide Memo No.5066 dated 11.04.2019 whereby in the light of the order passed by this Hon'ble Court on 01.04.2019 in a batch of cases, the State Govt. has decided to keep in abeyance all promotions on all posts under the State Government Service and meeting of the Departmental Promotion Committee till further orders.

7. Learned counsel for the State submits that after passing of the minor penalty order dated 21.02.2019, the case of the petitioner for promotion to the post of Superintending Engineer could not be considered and apart from that the State Govt. had put ban on promotion operating in the State of Bihar and the petitioner is not a working employee and he has already superannuated from service w.e.f. 31.01.2022 and whenever the continuing ban on promotion is lifted, the case of the petitioner for promotion shall be considered in accordance with law.

8. In view of the aforesaid and fair stand by the State Government, the writ application is disposed of with direction to



the State-respondents to consider the case of the petitioner after lifting of the ban on promotion and communicate the petitioner.

9. With the aforesaid direction, this writ application is disposed of.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2024
Transmission Date	NA

